

LANDS—SALE AND LEASE OF PUBLIC FREE SCHOOL, ASYLUM
AND PUBLIC LANDS.

CHAP. 47.—[S. B. No. 95]. An act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools and the several asylums, and the lease of such lands and of the public lands of the State, and the patenting of any part of said lands for church, cemetery or school house sites; and to prevent the free use, occupancy, unlawful enclosure or unlawful appropriation of such lands, and to prescribe and provide adequate penalties therefor.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools, the Lunatic Asylum, the Blind Asylum, the Deaf and Dumb Asylum, and the Orphan Asylum shall be sold and leased under the provisions of this act.

SEC. 2. The Commissioner of the General Land Office is hereby vested with all the power and authority necessary to carry into effect the provisions of this act, and shall have full charge and discretion of all matters pertaining to the sale and lease of said lands, and their protection from free use and occupancy and from unlawful enclosure, with such exceptions and under such restrictions as may be imposed by the provisions of this act, or by the Constitution of the State. He shall, as soon as practicable, adopt such regulations not inconsistent with the Constitution or this act as may be deemed necessary for carrying into effect the provisions of this act, and may from time to time alter or amend such regulations so as to protect the public interest; but all regulations shall be submitted to the Governor for his approval before adoption or promulgation. He shall adopt all necessary forms of applications for sales or leases and all other forms necessary or proper for the transaction of the business imposed upon him by this act, and may from time to time call upon the Attorney General to prepare such forms; and it shall be the duty of that officer to furnish the Commissioner of the General Land Office with such advice and legal assistance as may be requisite for the due execution of the provisions of this act; and it shall be the duty of such Commissioner to call upon the Attorney General for advice whenever there is any doubt as to the meaning of this act or any provisions thereof.

SEC. 3. The Commissioner of the General Land Office shall from time to time, as the public interest may require, cause any or all of the lands belonging to the several funds mentioned in this act to be carefully and skillfully classified and valued that have not heretofore been classified, and for this purpose he may appoint, with the approval of the Governor, such number of competent agents, who shall be citizens of the county or district where such land is situated, as may be necessary, or may determine and declare the classification and valuation without the aid of such agents, and upon such facts as may be satisfactory to the Commissioner. Such agents shall receive for their work a reasonable compensation, to be fixed by the Commissioner of the General Land Office, and not to exceed the sum of three dollars per section; and no such expense shall be incurred in the absence of an appropriation by law to cover such expenditure, and the State shall not be liable for any expenditure of this character incurred in excess of current appropriations.

SEC. 4. It shall be the duty of such agents as may be appointed under the provisions of this act, under such restrictions and instructions as may be prescribed by the Commissioner of the General Land Office, to classify such lands belonging to the several funds mentioned in this act as the Commissioner may direct, into agricultural, pasture, and timber lands, and for this purpose they shall carefully examine the same, and after such examination they shall prepare an accurate plat of each section, showing the relative proportions of timber and open land on such section, and their situation; also, the quality of the soil, the topography of the land, and the quality and kind of timber, and the streams and other sources of water supply, and their location, and such other facts as may be important; and from time to time, as may be prescribed by the Commissioner of the General Land Office, such agent shall prepare and forward to the Commissioner, with such plats, a tabulated statement of such lands so examined by him, with the value of each section, and such plats and reports when approved by the Commissioner, shall be filed in the General Land Office as a part of the records of said office; but nothing in this act shall be construed to require or authorize a classification of lands already classified under former laws: *Provided*, that any section or part of any section heretofore classified as timbered land which is not pine land nor valuable chiefly for the timber thereon may be classified under the provisions of this act as agricultural lands.

SEC. 5. When any portion of said land has been classified to the satisfaction of the Commissioner under the provisions of this act or former laws, such lands shall be subject to sale, but to actual settlers only, and in quantities of not less than forty acres, and in multiples thereof, nor more than one section containing six hundred and forty acres more or less: *Provided*, that when there is a fraction less than forty acres of any section left such fraction may be sold; but lands classified as purely pasture lands may be sold in quantities not to exceed four sections to the same settler.

SEC. 6. It shall be the duty of the Commissioner of the General Land Office to notify in writing the county clerk of each county of the valuation fixed upon each section of land in his county, and in each county attached to it for judicial purposes, which he offers for sale, which notification shall be kept by the clerk in his office and recorded in a well bound book, which shall be open to public inspection.

SEC. 7. All lands belonging to the public free schools and the several asylum funds shall be sold at no less than two dollars per acre, except pasture lands, which shall be sold at not less than one dollar per acre, and all timber lands shall be sold at not less than five dollars per acre. By timber lands as here used is meant lands valuable chiefly for the timber thereon.

SEC. 8. Any bona fide actual settler who may reside on any part of the lands the sale of which is authorized by this act at the time this act may go into effect, shall have the prior right for a period of ninety days after this act goes into effect, or after said land shall have been placed upon the market, to purchase such quantity of land as may be limited by this act, to include his improvements, upon complying with the provisions of this act regulating sales as in other cases, and such land shall be appraised without reference to the improvements thereon. Any bona fide settler who has heretofore purchased or who may hereafter purchase not

exceeding one section of agricultural land, shall have the right to purchase three strictly pastoral sections, upon his making oath that he is not acting in collusion with others for the purpose of buying for any other person or corporation, and that no other person or corporation is directly or indirectly interested in the purchase of the same.

SEC. 9. All sales shall be made by the Commissioner of the General Land Office, or under his direction, and he shall prescribe suitable regulations whereby all purchasers shall be required to reside upon as a home the land purchased by them for three consecutive years next succeeding the date of their purchase, except when otherwise provided. Such regulations shall require the purchaser to reside upon the land for three consecutive years herein mentioned, and to make proper proof of such residence and occupancy to the Commissioner of the General Land Office within two years next after the expiration of said three years, by his affidavit, corroborated by the affidavits of three disinterested and credible persons, to be certified by some officer authorized to administer oaths, and on making such proof the Commissioner shall issue to the purchaser, his heirs and assigns, a certificate showing that fact. If, however, any purchaser has sold his purchase, or any part thereof, his vendee shall be permitted to compute the time of the occupancy of his vendor as a part of his own occupancy; and if any person has sold the whole or any part of his purchase under this or any former law, his vendee, or if he refuses to do so, the vendor himself, may make proof of occupancy as provided herein. Any person desiring to purchase land in accordance with the provisions of this act shall forward his application to the Commissioner, describing the land sought to be purchased, which application shall be accompanied with the affidavit of the applicant, in effect that he desires to purchase the land for a home, and has in good faith settled thereon, except where otherwise provided herein, and he shall also swear that he is not acting in collusion with others for the purpose of buying the land for any other person or corporation, and that no other person or corporation is interested in the purchase thereof. Any owner of land heretofore purchased, and which land has been or may be forfeited for nonpayment of interest, shall have ninety days prior right after this act goes into effect, or after the land is again placed upon the market, to purchase said land without the condition of settlement and occupancy, in case it has been occupied for three consecutive years as required by law; but if not, then he shall reside thereon until the occupancy under the first and last purchase shall together amount to said term of three years: *Provided*, that when any forfeiture has been made the Commissioner of the General Land Office shall add to the appraised value of such land the amount of interest due thereon at the time of forfeiture, which shall be paid in cash with the first payment of one-fortieth of the appraised value of the land when purchased under the preference right to purchase given herein. Any original purchaser or his vendee of any of the lands the sale of which is provided for in this act, who has improved such land as a home, and who has been forced to temporarily abandon same on account of drouth, and who shall in good faith reoccupy the same, either by themselves or vendees, within six months after this act goes into effect, shall not have the forfeiture declared against them under the law providing for the forfeiture of such lands for non-occupancy: *Provided*, that they shall make affidavit, supported by the affidavit of three disinterested witnesses, that

they have reoccupied the land as a home in good faith, and that they had abandoned the same since their purchase on account of the drouth and not otherwise; and such absence shall not be deducted from the three-years occupancy required by law in making final proof of occupancy: *And provided further*, that any purchasers or their vendees of such lands who have failed to make proof of occupancy as required by the law regulating such purchases shall have six months after this act shall take effect to make such proof of occupancy as required by the provisions of this act. The purchaser shall transmit to the Treasurer of the State one-fortieth of the aggregate purchase money for the particular tract of land, and send to the Commissioner his obligation to the State, duly executed, binding the purchaser to pay to the State on the first day of November of each year thereafter, until the whole purchase money is paid, one-fortieth of the aggregate price, with interest at the rate of three per cent per annum on the whole unpaid purchase money, which interest shall also be payable on the first day of November of each year, and upon receipt of one-fortieth of the purchase money by the Treasurer, and the affidavit and obligation aforesaid by the Commissioner, the sale shall be deemed and held effective from the date the affidavit and obligation are filed in the General Land Office: *Provided*, that if the land applied for be timbered land, then the purchaser shall be required to pay the full amount of the purchase money at the time of his purchase.

SEC. 10. Purchasers shall have the option of paying the purchase money for their lands in full at any time after they have occupied the same for three consecutive years; and when they have made such payment in full, together with the proof that they have occupied the land for three consecutive years, they shall receive patents for the same upon payment of the patent fees prescribed by law. Purchasers may also sell their lands, or a part of the same, in quantities of forty acres or multiples thereof, at any time after the sale is effected under this act, and in such cases the vendee, or any subsequent vendee, or his heirs or legatees, shall file his own obligation with the Commissioner of the General Land Office, together with the duly authenticated conveyance or transfer from the original purchaser and the intermediate vendee's conveyance or transfer, if any there be, duly recorded in the county where the land lies or to which said county may be attached for judicial purposes, together with his affidavit, in case three years residence has not already been had upon said land and proof made of that fact, stating that he desires to purchase the land for a home, and that he has in good faith settled thereon, and that he has not acted in collusion with others for the purpose of buying the land for any other person or corporation, and that no other person or corporation is interested in the purchase, save himself, and thereupon the original obligation shall be surrendered or canceled or properly credited, as the case may be, and the vendee shall become the purchaser direct from the State, and be subject to all the obligations and penalties prescribed by this act, and the original purchaser shall be absolved in whole or in part, as the case may be, from further liability thereon: *Provided*, that whenever a town shall be located and established upon any lands sold under this or any former act, the purchaser or his vendee shall be permitted to pay the entire balance of principal and interest due the State upon such land and obtain a patent therefor at any time, but no such payment shall be permitted or patent.

issued until such purchaser or owner of such land shall file in the General Land Office a certified plat of such town, made by a surveyor, which shall be accompanied by the affidavit of the owner of such land, corroborated by the affidavit of five disinterested and credible citizens of the county, to the effect that a town, giving its name, has been located and established upon the land, and that there has been erected therein, and is being occupied by bona fide citizens, twenty business and residence houses, or either, or both.

SEC. 11. If upon the first day of November of any year the interest due on any obligation remains unpaid, the Commissioner of the General Land Office shall endorse on such obligation "Land Forfeited," and shall cause an entry to that effect to be made on the account kept with the purchaser, and thereupon said land shall thereby be forfeited to the State without the necessity of re-entry or judicial ascertainment, and shall revert to the particular fund to which it originally belonged, and be resold under the provisions of this act or any future law: *Provided*, if any purchaser shall die, his heirs or legal representatives shall have one year in which to make payment after the first day of November next after such death, and shall be absolved and exempt from the requirement of settlement and residence thereon. And if any purchaser shall fail to reside upon and improve in good faith the land purchased by him, he shall forfeit said land and all payments made thereon to the State, in the same manner as for non-payment of interest, and such land shall be again for sale as if no such sale and forfeiture had occurred: *Provided*, that all necessary and temporary absence from such land of such purchaser, for the time of not more than six months in any one year, for the purpose of earning money with which to pay for the land, or for the purpose of schooling his children, shall not work a forfeiture of his title: *Provided*, further, that nothing in this section contained shall be construed to inhibit the State from instituting such legal proceedings as may be necessary to enforce such forfeiture, or to recover the full amount of the interest and such penalties as may be due the State at the time such forfeiture occurred, or to protect any other right to such land, which suits may be instituted by the Attorney General or under his direction, in the proper court of the county in which the land lies or of the county to which such county is attached for judicial purposes: *Provided*, this section shall be printed on the back of receipt.

SEC. 12. In all cases where persons have purchased or may hereafter purchase State, school or asylum lands under any act of the Legislature authorizing the sale thereof and requiring a residence of three years thereon, and said persons have so resided upon said land or may hereafter reside thereon for the period of three years as required by law, and their files have been or may hereafter be cancelled and purchases annulled by the Commissioner of the General Land Office on account of conflict with other surveys, said persons shall have the right to purchase other lands of the classes mentioned in this act without being required to reside thereon. Persons desiring to avail themselves of the benefits of this provision shall make satisfactory proof to the Commissioner of the three years' residence under their first purchase.

SEC. 13. In all cases where any of the lands mentioned in this act have been heretofore sold under any law authorizing the sale thereof, and the original purchaser shall have sold or may hereafter sell any part of his

purchase in quantities of forty acres or multiples thereof, and the conveyance to his vendee or vendees is filed in the General Land Office after having been duly recorded in the proper county, the Commissioner and Treasurer shall credit his account with the value of the land sold, and they shall open up new accounts with the original purchaser and such vendee or vendees, and the Commissioner of the General Land Office shall patent said land to the owners thereof in quantities of forty acres or multiples thereof: *Provided*, that when any of such land is situated within three miles of a county seat it may be patented in twenty acre tracts.

SEC. 14. The Commissioner of the General Land Office is hereby authorized to patent in quantities of not less than one nor more than five acres any of the vacant and unappropriated public domain of Texas or any of the lands mentioned in this act as sites for cemeteries, churches or school houses. When the land is desired as a location for a school house, the patent shall issue to the county judge of the proper county and his successors in office in trust for that purpose; and when desired for a church house or a cemetery, it shall be issued to trustees designated by those requesting the patent. If the land has been previously sold by the State and not patented, the owner thereof shall execute a deed therefor to the county judge or trustees, as the case may be, and cause the same to be recorded in the office of the county clerk of the proper county, and to be filed in the General Land Office, and shall be entitled to credit on his account with the State for the value therefor. Except in case of vacant land the value of the land shall be deposited with the State Treasurer, and in all cases the patent fees shall be paid to the Commissioner of the General Land Office before patent issues. Such land shall be taken from the margin of a tract or section or of a subdivision thereof, as the case may be.

SEC. 15. The Commissioner of the General Land Office shall retain in his custody as records of his office all applications, affidavits, obligations and all other papers relating to sales of said lands, and shall cause to be kept accurate accounts with each purchaser. All purchase money due upon lands, as well as accrued interest, and all other moneys arising from the sales or leases of said lands shall be paid by the purchaser or lessee direct to the Treasurer of the State, who shall cause an accurate account to be kept with each purchaser, and who shall execute duplicate receipts for all sums of money paid to him under the provisions of this act, one of which receipts shall be delivered to the purchaser or his agent, and the other transmitted to the Commissioner of the General Land Office.

SEC. 16. The Commissioner of the General Land Office shall adopt such regulations for the sale of the timber on the timbered lands as may be deemed necessary and judicious. Such timber shall not be sold for less than five dollars per acre, cash, except in such cases as the Commissioner may ascertain by definite examinations by an approved agent appointed by him for that purpose, to be paid by the purchaser, to be sparsely timbered or containing timber of but little value, in which case he may sell the timber on such sections or part of sections at its proper value: *Provided*, such timber is sold at not less than two dollars per acre. The purchaser shall have five years from the date of his purchase within which to remove the timber therefrom, and in case of failure to

do so, such timber shall thereby be forfeited to the State without judicial ascertainment: *Provided*, that all timbered lands from which the timber has been cut and taken off may be placed on the market and sold as agricultural or grazing lands, according to classifications to be made by the Land Commissioner: *Provided*, that the purchaser or his vendees of any such timber shall have the right to purchase the land upon which such timber so purchased is situated at two dollars per acre, cash, at any time before the expiration of five years from date of purchase of timber under the provisions of this act.

SEC. 17. The public lands and all lands referred to in the several funds mentioned in this act shall be leased by the Commissioner of the General Land Office under the provisions of this act. All lands classified as agricultural and all lands containing permanent water thereon shall be leased for a term of five years or less at not less than three cents per acre per annum, and all lands classified as pasture or dry grazing lands shall be leased for a term of not more than ten years at not less than two cents per acre per annum, which rental shall be paid yearly in advance, the first payment to be made at the time the lease contract is entered into. If at the termination of any lease the lands covered thereby are still for lease the lessee thereof shall have the preference right to again lease such lands theretofore leased by him upon the terms and at the prices then fixed by law. All leases shall be executed under the hand and seal of the Land Commissioner and delivered to the lessee or his duly authorized agent, and such lease shall not take effect until the first annual rental is paid, and such lease thereof duly filed for record in the clerk's office of the proper county, and it shall not be necessary for the Commissioner to acknowledge such lease contract so signed and delivered; and all leases under the provisions of this act shall be advertised by the Commissioner in such manner as he may think best, and let to the highest responsible bidder in such quantities and under such regulations as he may think to the best interest of the State, not inconsistent with the equities of the occupant. All bids and offers to lease may be rejected by him prior to signing the lease contract, for fraud or collusion, or other good and sufficient cause.

SEC. 18. Any person desiring to lease any portion of the lands belonging to any of the funds mentioned in this act shall make application in writing to the Commissioner of the General Land Office, specifying and describing the particular lands he desires to lease, and thereupon the Commissioner, if satisfied that the lands applied for are not in immediate demand for purposes of actual settlement, shall notify the applicant in writing that his proposition to lease is accepted, and thereupon he shall execute and deliver to the lessee, in the name and by the authority of the State of Texas, a lease of said land for such term as may be agreed upon, and deliver the same to such lessee when satisfied that the lessee has paid to the Treasurer of the State the rent for one year in advance. No lands which are now or may hereafter be classified as grazing or pasture lands shall be subject to sale, nor shall the possession thereof by the lessee be disturbed during the term of such lease, except as herein provided, so long as the rents are paid promptly in advance each year, as required by this act. Any actual settler upon any of the lands mentioned in this act, being the head of a family, shall have the right to buy at any time not more than three additional sections of strictly pasture lands, notwith-

standing any lease thereof, unless by some other actual settler, the head of a family, leasing not more than three sections. Whenever any leaseholder has leased from the State of Texas exceeding ten sections, any actual settler, being the head of a family, shall have the right to lease within a radius of five miles of the land occupied by him not exceeding three sections of the land held by such larger leaseholder, but shall not be allowed thereby to reduce the larger leasehold to less than ten sections: *Provided*, that any man not the head of a family shall have this preference right to lease three sections after having placed two hundred dollars worth of improvements on the section purchased by him: *Provided*, that in all cases where the actual settler having purchased one section of land is permitted by the provisions of this section to buy or lease additional lands, and thus terminate the lease of the larger leaseholder, he shall be required to so select such additional lands sought to be purchased or leased by him as that by an exchange of lands, section for section and acre for acre, of like quality and class with the larger leaseholder, he can secure the quantity of land he desires to purchase or lease in a solid body; and in case the larger leaseholder desires to do so the actual settler so purchasing or leasing the additional lands in this section mentioned shall make such exchange with him, and shall be required to fence the same separate and apart from the lands of the larger leaseholder; but in no case shall the actual settler be allowed to purchase or lease the lands and terminate the lease of the larger leaseholder under the provisions of this section upon which there is a permanent natural or artificial water supply; and in no case shall such actual settler be permitted to so select such additional lands for purchase or lease as that by an exchange of lands with the larger leaseholder such larger leaseholder will be required to give in exchange any lands upon which there may be a permanent natural or artificial water supply, or upon which there may be improvements of the value of two hundred dollars. In case the larger leaseholder does not desire to exchange lands, as herein provided, with the actual settler, or upon request made by such actual settler refuses to do so within a reasonable time, then he shall not be required to fence his land, but may turn loose inside of any inclosure in which his lands may be situated not more than one head of cattle or horses, or in lieu thereof four head of sheep or goats, for every ten acres of land so purchased or leased by him: *Provided further*, that nothing herein shall be construed so as to prevent either lessee from fencing his own land from the other if he should desire to do so, or to require the small leaseholder to fence his lands at all unless the larger leaseholder shall have his leasehold fenced: *And provided further*, that nothing in this section shall be so construed as to permit any actual settler, either by purchase or lease, or by both, to terminate the lease of the larger leaseholder upon more than four sections: *And provided further*, that north of a line extending west from the southeast corner of Callahan county to the southeast corner of Martin county; thence north to the south line of Lynn county; thence west to the southwest corner of Lynn county; thence north to the south line of Castro county; thence west to the line of New Mexico, the settler exercising the preference right herein given to buy or lease within the enclosure of another may so buy or lease any lands except a section on which there are improvements of the value of two hundred dollars, or on which there is a permanent artificial water supply, and shall not be required to enclose his lands separate from the

lands of the larger leaseholder unless he can obtain the full amount of four sections in a solid body, or unless the same can be secured in a solid body by exchange of lands for the term for which he leases, section for section or acre for acre, with the larger leaseholder; and in all cases where he is not required by the provisions of this act to enclose his lands he may turn loose not more than one head of horses or cattle, or in lieu thereof four head of sheep or goats, for every ten acres of land purchased or leased by him and unenclosed. Each violation of the provisions of this act which restricts the number of stock that may be turned loose on lands leased from the State shall be an offense, and the offender, on conviction, shall be punished by fine of one dollar for each head of stock he may so turn loose, and each thirty days violation of the provisions of this section shall constitute a separate offense. Any agricultural land that may be leased by an actual settler shall be subject to sale and settlement, but in case his lease does not embrace more than three sections, only on condition that the purchaser enclose with posts and at least two wires the land purchased by him separate from the land held by the lessee, and failure to so enclose it within three months from the date of the purchase shall be sufficient cause to authorize the Commissioner to cancel the contract of purchase and reinstate the lease. In all cases where the lease is terminated under any of the provisions hereof, before the expiration of the term of lease, the lessee shall have a pro rata credit upon his next year's rent, or the money refunded to him by the Treasurer, as he may elect. On the expiration of his lease or its termination under any provision of this section the lessee shall have the right for a period of sixty days to remove any or all the improvements he shall have placed upon the leased premises.

SEC. 19. Any person desiring to lease any portion of the lands aforesaid on which no permanent water supply exists, shall notify the Commissioner of the General Land Office in writing that he desires to lease lands, specifying and describing them, provided he can obtain the necessary supply of water by boring or otherwise, and that he will within ninety days lease said lands, provided such water supply can be obtained; he shall also make and file with the Commissioner of the General Land Office his bond, with good and sufficient personal security in a sum equal to one year's rental of the quantity of land applied for, payable to the State of Texas, conditioned that he will diligently and in good faith try to secure water on such land during such ninety days, and if secured will lease the designated lands for the term prescribed herein, and thereupon the Commissioner shall for such ninety days withhold the lands thus designated from lease to any other person; within or at the expiration of said ninety days and annually thereafter such applicant to lease shall pay to the State of Texas, in advance, one year's rental of the land applied for by him, on satisfactory proof of which payment the Commissioner shall execute and deliver to the lessee a lease of the said lands, signed by himself officially and attested by the seal of the Land Office, together with which he shall deliver up the bond of said lessee, marked "Satisfied." If the said lessee shall fail to apply for his lease and make the payment aforesaid within said ninety days, and shall also within said ninety days fail to make proof to the satisfaction of the Commissioner of the General Land Office within that time that he has in good faith and diligently used proper means and expended proper efforts to secure a

water supply on such land and failed, then and in that case the Commissioner shall mark said bond "Forfeited," and shall deliver the same to the Attorney General of the State, who shall at once cause the said bond to be sued upon and collected; and such collection shall become a part of the available school fund. The penalty stated in such bond is hereby declared to be liquidated damages, and judgment for that sum shall in all cases be recovered by the State. Proof satisfactory to the Commissioner of the General Land Office that proper, suitable and diligent effort had been made by such applicant to secure water, and that sufficient water could not be secured, shall relieve the principal and sureties on said bond from all responsibility therein, and it shall be marked "Satisfied" by said Commissioner and delivered to the principal therein. No lease of less than four sections of unwatered pasture lands shall be made unless such less number includes all unleased land in that vicinity belonging to the several funds mentioned in this act. Lessees or their vendees who shall have at their own expense secured water on their leaseholds in accordance with the provisions of this section shall, at the expiration of their lease contract, have the right to a renewal of their leases for another term of five years at the price then provided by law, by giving sixty days written notice to the Commissioner, as provided in the preceding section.

SEC. 20. All lessees from the State of lands named in this act, who are one year or more in arrears on their contracts for rent, shall have the right for the period of four months from the time this act shall go into effect, but not longer, within which they may execute and deliver to the Commissioner of the General Land Office their respective obligations in writing, with personal security satisfactory to the Commissioner, for the respective sums of money then owing by them to the State; and on delivery of such obligation to the Commissioner and the cash payment of one year's rental in advance, they shall have the right to have their lease contracts cancelled, and may lease such lands anew under this act. Such obligation shall bind such lessees to pay said sums of money, one-third in one year, one-third in two years, and the remainder in three years from date, and shall draw six per cent interest per annum, payable annually; and thereupon the Commissioner shall balance their accounts on the books of his office and cancel and deliver up their old leases and make to them new leases under this act. All lessees who are not in arrears for rent or who shall pay all indebtedness on leases, have the right to surrender their present leases and lease anew their said lands under this act.

SEC. 21. All lessees shall pay the annual rents due for leased lands directly to the Treasurer of the State, who shall execute receipts in duplicate for each payment made by any lessee, one of which receipts shall be delivered to the lessee and the other transmitted to the Commissioner of the General Land Office. The Treasurer shall cause to be kept an accurate account with each lessee, and the Commissioner of the General Land Office shall file in his office all applications and other papers relating to leases, and keep a record of all leases made, which papers shall constitute a part of the records of his office.

SEC. 22. If any lessee shall fail to pay the annual rent due in advance for any year within sixty days after such rents shall become due, the Commissioner of the General Land Office may declare such lease cancelled by a writing under his hand and seal of office, which writing shall

be filed with the other papers relating to such lease, and thereupon such lease shall immediately terminate, and the lands so leased shall become subject to purchase or lease under the provisions of this act. Such lease shall not be made to original lessees until all arrears are fully paid. During the continuance of all leases, and after forfeiture, the State shall have a lien upon all property owned by the lessee upon the leased premises to secure the payment of all rents due, which lien shall be superior to all other liens whatsoever; and it shall not be essential to the preservation or validity of such lien that it shall be reserved in the instrument of lease.

SEC. 23. Lessees shall have the right at any time to purchase their leased lands, subject to the limitations as to quantity provided by this act, and at the price and on the conditions herein provided, without reference to any improvements made on such lands by such lessees; and all improvements made by lessees on lands leased by them are hereby declared to be personal property, which may be removed by such lessees on the expiration of their lease contracts; and they shall have sixty days after such expiration in which to remove the same.

SEC. 24. If the Governor shall at any time be informed upon the affidavit of some credible person that any portion of the public lands or the lands belonging to any of the several funds named in this act have been enclosed, or that fences have been erected thereon without authority of law, he is authorized in his discretion to direct the Attorney General to institute suit in the name of the State for the recovery of such lands and damages, and a fee of not less than ten dollars for the attorney when the sum recovered is less than one hundred dollars, and when it is over that sum the fee shall be ten per cent, to be paid by the defendant for the use and occupancy of the same, and the removal of such enclosures and fences and such damages shall not be for a less sum than the amount of all the leases due during such occupancy. Such suit may be instituted in the district court of the judicial district in which the land or any portion thereof [is] situated; and upon application of the Attorney General and without affidavit or bond the court in which suit is pending shall issue a writ of sequestration directed to any sheriff of the State, commanding and requiring such officer to take such land and all property thereon belonging to the person or persons so unlawfully occupying said land into his actual custody, and hold the same subject to the further orders of the court. Such writ of sequestration may be executed by any sheriff of the State into whose hands it may be delivered, and it shall be the duty of any sheriff into whose hands it may come to proceed and execute such writ. The defendant in such suit may replevy as in ordinary cases by giving bond as prescribed by law, and such cases shall have precedence on the docket and stand for trial before all other cases; and in case judgment is recovered by the State in such suit, the court shall order such enclosures or fences to be removed and shall tax the costs of the suit, if any, against the defendant; and all property found upon the land belonging to the defendant, not exempt from execution, shall be liable to the payment of such costs and damages in addition to the personal liability of the defendant. Appeals may be prosecuted from all judgments in such cases as in ordinary cases, except that the State shall not be required to give bond to perfect its appeal, and such cases on appeal shall have precedence over all other cases. If any person shall make a lease contract, and after the same is enclosed by fence shall for any cause decide not to

continue payment of his lease, either in whole or in part, he shall give public notice by publication in any local paper having the largest circulation, for at least sixty days before the time in which his next annual payment shall become due, that he will not continue his lease after the year for which payment is made, and shall also state the number and block of the land which he will not lease inside his enclosure, if he only intends to surrender a part of his lease, and shall post and keep posted for said sixty days notices on all the gates of his pasture of such intention; then, and then only, he shall not be subject to the suit nor be liable for the damages provided for in this section.

Sec. 25. It shall be unlawful for any person to fence, use, occupy or appropriate by herding or line riding, any portion of the public lands of the State, or of the lands belonging to any particular fund specified in this act, without having first obtained a lease of such lands in accordance with the provisions of this act. Any person, whether owner of stock, manager, agent, employee or servant, who shall fence, use, occupy or appropriate by herding or line riding any portion of such lands without a lease thereof, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be fined not less than one hundred nor more than one thousand dollars, and in addition thereto shall be imprisoned in the county jail for a period of not less than three months nor more than two years. Each day of such fencing, occupying, using or appropriating by herding or line riding shall be deemed a separate offence, and any person so offending may be prosecuted by indictment or information in the proper court of the county where any portion of the land lies, or to which it may be attached for judicial purposes, or in the county of Travis, and jurisdiction of such offences is hereby vested in said courts; and in case any indictment or information is preferred or filed against a non-resident of this State for a violation of this article, it shall be the duty of the Governor to demand the extradition of the defendant from the proper officer of any State or Territory where he may be found, in order that he may be brought to trial. "Fencing," within the meaning of this article, is the erection of any structure of wood, wire or both, or any other material intended to prevent the passage of cattle, horses, mules, asses, sheep, goats or hogs, whether the same shall enclose lands on all sides or be erected on one or more sides. Any appropriation of land belonging to any particular fund specified in this act or of the public lands of this State, without having first obtained a lease thereof, by fencing of any kind, or by enclosures consisting partly of fencing and partly of natural obstacles or impediments to the passage of live stock, shall be deemed an unlawful appropriation, punishable as provided in this article for appropriating such lands, and each day said land is appropriated shall be deemed a separate offense.

Sec. 26. The Commissioner of the General Land Office may withhold from lease any agricultural lands necessary for purposes of settlement; and no agricultural lands shall be leased if in the judgment of the Commissioner they may be in immediate demand for settlement, but such lands shall be held for settlement and sold to actual settlers only under the provisions of this act; and all sections or fractions of sections in all counties organized prior to the first day of January, 1875, except El Paso, Pecos and Presidio counties, which sections are detached and isolated from other public lands, may be sold to any purchaser except to a

corporation, without actual settlement, at not less than two dollars per acre, upon such terms as the Commissioner of the General Land Office may prescribe.

SEC. 27. All laws and parts of laws in conflict with this act are hereby repealed.

SEC. 28. The inadequate provisions under the present law for support of the public free schools and the necessitous condition of the available school fund creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect and be in force from and after its passage, and it is so enacted.

[NOTE.—The foregoing act was presented to the Governor of Texas for his approval on the 4th day of April, A. D. 1895, but was not signed by him nor returned to the house in which it originated with his objections thereto within the time prescribed by the Constitution, and thereupon became a law without his signature.—TOM C. THORNTON, Acting Secretary of State.]

LANDS—AMENDMENT TO SENATE BILL NO. 95.

CHAP. 48.—[S. B. No. 209.] An act to repeal section 20 and to amend sections 17 and 24 of Senate bill No. 95, entitled "An act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools and the several asylums, and the lease of such lands, and of the public lands of the State, and the patenting of any part of said lands for church, cemetery, or school house sites; and to prevent the free use, occupancy and unlawful enclosure or unlawful appropriation of such lands; and to prescribe and provide adequate penalties therefor," passed at the present session.

SECTION 1. *Be it enacted by the Legislature of the State of Texas:* That section 20 of Senate bill No. 95, entitled "An act to provide for the sale of all lands heretofore or hereafter surveyed and set apart for the benefit of the public free schools and the several asylums, and the lease of such lands, and of the public lands of the State, and the patenting of any part of said lands for church, cemetery or school house sites; and to prevent the free use, occupancy and unlawful enclosure or unlawful appropriation of such lands, and to prescribe and provide adequate penalties therefor," passed at the present session, be and the same is hereby repealed, and sections 17 and 24 of said act be and the same are hereby amended so as to hereafter read as follows:

Section 17. The public lands and all lands referred to in the several funds mentioned in this act shall be leased by the Commissioner of the General Land Office under the provisions of this act, at not less than three cents per acre. All lands classified as agricultural and all lands containing permanent water thereon shall be leased for a term of five years or less, and all lands classified as pastoral or dry grazing lands shall be leased for a term of not more than ten years, and the rental shall be paid yearly in advance, the first payment to be made at the time the lease contract is entered into. If at the termination of any lease the lands covered thereby are still for lease, the lessee thereof shall have the